Slaughter v. Jones Day Doc. 13

IN THE UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Bankruptcy Court
Southern District of Texas
FILED
AUG 7 - 2006
Michael N. Milby, Clerk

AVA SLAUGHTER,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**Cause No. H-05-3455**
	§	
JONES DAY,	§	
	§	
Defendant.	§	**A jury is requested**

PLAINTIFF SLAUGHTER'S FIRST AMENDED COMPLAINT

Ava Slaughter ("Slaughter") files this first amended complaint against defendant Jones Day. In support, Slaughter alleges as follows:

1.

Statement of the Case

1.1 This is a case of racial discrimination in employment pursuant to the Texas Commission on Human Rights Act and 42 U.S.C §1981. Based upon the actions of the defendant, claims for retaliation have been added.

2.

Parties, Jurisdiction and Venue

2.1 Plaintiff is Ava Slaughter, a female citizen of the United States of America within a protected classification.

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2.2 Defendant Jones Day is a law firm with offices throughout the world. Jones Day has answered and may be served with this amended complaint through its attorney of record Shauna Clark, Fulbright & Jaworski, L.L.P., 1301 McKinney, Suite 5100, Houston, Texas 77010.

2.3 This court has subject matter jurisdiction over the claims described in this petition pursuant to the statutes and Constitution of the United States of America and the doctrine of pendent jurisdiction.

2.4 Venue is proper in Southern District of Texas, Houston Division as all or parts of the claims alleged in this complaint arose based upon conduct committed by the defendant within Harris County, Houston, Texas.

3.

Facts Supporting Relief

3.1 Slaughter is currently employed by the defendant.

3.2 She has worked for Defendant in its Global Information Services ("GIS") Department since approximately January of 2001.

3.3 Slaughter's title was "GIS Manager." Before that, she was the Director of Information Technology at Bayko Gibson Carnegie Hagan & Schoonmaker, L.L.P., a Houston-Based lawfirm that merged into Jones Day around January 2001.

3.4 After the merger with the Bayko Gibson Firm, Slaughter continued running all of the information technology services for the Jones Day Houston Office until she was demoted in November of 2003.

3.5 Slaughter was the GIS Manager for Houston.

3.6 Jones Day's worldwide listings for the "Global Information Services Management Team" repeatedly listed Slaughter as the Manager for Houston. For example, the lists dated September 18, 2002 and October 17, 2002, both listed her as the manager for the Houston Office.

3.7 Although other GIS Staff were listed in the directories with an indication that they were in "Acting" capacity, no such qualified ever appeared with respect to Slaughter. For example, the October 17, 2002, Management Team listing identified Natalie Anton as a Regional Manager (for the North American Region), and listed Sara White as "Acting Regional Manager." No such qualification appeared on this list with respect to Slaughter.

3.8 Likewise, Jones Day created a document entitled "GIS North America Office Address Listing GIS Manager." This document, dated December 11, 2002, identified Sara White as "Regional Manager (acting)." For the Houston Office, it identified "Ava Slaughter – Manager."

3.9 In 2002, moreover, Jones Day flew Slaughter to Cleveland, Ohio to attend the "2002 Global Information Services Annual Managers Meeting." Ms. Slaughter is the only African American manager pictured at that conference.

3.10 Around September 18, 2003, the Houston Office Administrator, Kevin Richardson, stated that he was going to bring in a manager for the GIS Department.

3.11 This was strange, given that Slaughter was already the GIS Manager, as Jones Day's own documentation had identified her as that for at least the previous year.

3.12 Richardson urged Slaughter not to apply for the position.

3.13 Slaughter did apply for the position, given that she was already filling it.

3.14 She spoke with a Human Resources representative ahead of time to advise that she would be listing on her resume that she was already in the position of "GIS manager." Slaughter was told not to do so because that would "ruffle some feathers." She was told to list her job on the resume as "Technology Support Specialist."

3.15 Slaugher was not selected for the position of GIS Manager that she was already filling.

3.16 Instead, Jones Day gave her job to Jerri Del Riesgo, who is not in the protected class.

3.17 Previously, Del Riesgo worked in a different Jones Day office and reported to the GIS Manager there.

3.18 After Del Riesgo was given Slaughter's job, Slaughter was required to report to Del Riesgo.

3.19 Slaughter is African-American.

3.20 Del Riesgo is white.

3.21 Richardson is white.

3.22 Upon information and belief, Del Riesgo was paid more to serve as the GIS Manager in Houston than Slaughter was paid to fill the same job.

3.23 Following the hiring of Del Riesgo, Ms. Slaughter made a complaint of discrimination through the channels of Jones Day's human resources system.

3.24 The charges of discrimination were investigated.

3.25 In the course of that investigation, Ms. Slaughter tape recorded a conversation with the investigator, David Williams. Ms. Slaughter made this recording in order to have a record of the conversation, which was long and involved.

3.26 Ms. Slaughter provided a copy of this tape recording and transcript to the EEOC and to the defendant in this case through discovery.

3.27 The defendant has been aware of this tape recording for an extended period of time.

3.28 Ms. Del Riesgo quit her position after a short period of time.

3.29 After Ms. Del Riesgo quit, Ms. Slaughter, in the course and scope of her duties, discovered various personal memorandum and other documents which had been left in the shared work area or shared computer drive.

3.30 Ms. Slaughter preserved these materials.

3.31 In connection with discovery with this lawsuit, Ms. Slaughter produced these materials and other memorandum, electronic mail and other materials which were in her possession, custody and control, in compliance with her duties under the Federal Rules of Civil Procedure.

3.32 These materials were produced to the defendant and to the EEOC in connection with the investigation and participation in a complaint of discrimination.

3.33 Ms. Slaughter has been disciplined for making the tape recording and for producing materials in the course of discovery.

3.34 This discipline has threatened Ms. Slaughter with termination and acts as a chill upon her motivation to act to protect her rights.

3.35 This action is in retaliation and would not have occurred but for Ms. Slaughter's participation in and compliance with law.

4.

First Cause of Action

Racial Discrimination

Texas Commission on Human Rights Act

4.1 Slaughter repeats in this, her first cause of action, all of the previous allegations as if fully set forth herein.

4.2 Slaughter was GIS Manager for Houston.

4.3 With no explanation, Slaughter was required to interview for her own job.

4.4 Slaughter's job was then given to Del Riesgo, who is white.

4.5 Del Riesgo was paid more as GIS Manager than Slaughter was paid as GIS Manager.

4.6 Because of Del Riesgo's hiring as the Houston GIS Manager, Slaughter was demoted and then made to report to Del Riesgo.

4.7 Slaughter is African-American.

4.8 Slaughter was qualified for the position of GIS Manager.

4.9 Slaughter was demoted from the position of GIS Manager when her job was given to Del Riesgo, who is white.

4.10 Slaughter has therefore been discriminated against in the course of her employment because of her race, African-American.

4.11 Jones Day's discrimination against Slaughter violates the Texas Commission on Human Rights Act and 42 U.S.C. § 1981.

4.12 Slaughter has been damaged in a continuous basis as a result of the Jones Day discrimination against her. Each and every pay check is a continuing violation of the law.

4.13 An award of exemplary damages is therefore warranted.

5.

Second Cause of Action

Retaliation

Texas Commission on Human Rights Act

5.1 Slaughter repeats in this, her second cause of action, all of the previous allegations as if fully set forth herein.

5.2 Slaughter has participated in a complaint of discrimination.

5.3 Slaughter has been involved in the investigation of a complaint of discrimination.

5.4 In the course of that participation and investigation, Slaughter made a tape recording of a conversation, which was long and involved, in order to have a record of the statements made by the investigator.

5.5 Slaughter also discovered, in the course and scope of her employment, materials which had been left in the shared work area or shared computer drives of the firm.

5.6 This action occurred following the termination/resignation of the individual and was in the proper course and scope of Slaughter's job duties.

5.7 Slaughter discovered materials relevant to the investigation of the charges of discrimination and preserved those materials.

5.8 Slaughter also preserved materials received during the course of her employment which are relevant to the investigation of the charges of discrimination and preserved those materials.

5.9 In the course and scope of the litigation which followed the investigation of discrimination, Slaughter provided these materials to her attorneys who then produced those materials in compliance with the Rules to the defendant.

5.10 The defendant received those materials at the beginning of the litigation, on or about February of 2006, but it is likely that these materials were produced in connection with the investigation by the EEOC, and possibly earlier.

5.11 On June 20, 2006, defendant disciplined Ms. Slaughter for making the tape recording and "obtaining access to and/or [taking] Firm documents or copies of Firm documents without authorization and/or a business reason to do so."

5.11 This disciplinary counseling report contained the statement that "any future violation of the above may result in disciplinary action, up to and including dismissal."

5.12 This action was in direct retaliation for the actions of Slaughter in preserving evidence of a violation of the law, discrimination, and participating in filing a complaint and the investigation of same.

5.13 This action was intended to and has the actual effect of intimidation and preventing the bringing of charges of discrimination.

5.14 But for the investigation and participation in the filing of charges of discrimination, Slaughter would not have been subjected to this retaliation.

5.15 These actions on the part of defendant constitute a retaliatory and adverse employment action to the detriment of Slaughter.

5.16 These actions have damaged Slaughter and continue to damage Slaughter in the future.

5.17 These actions were wilfull and intentional and with reckless disregard to the rights of Slaughter supporting a claim for punitive and exemplary damages for which Slaughter seeks recovery.

5.18 Slaughter was required to hire the services of an attorney to prosecute these claims and seeks recovery of reasonable attorney's fees and expenses.

6.

Exhaustion of Administrative Prerequisites

6.1 Slaughter timely filed charges of race discrimination with the EEOC and the Texas Commission on Human Rights.

6.2 Slaughter's charge has been on file with the TCHR for more than 180 days.

6.3 Slaughter brings this case within 2 years of the notification that she would be required to interview for her own job.

6.4 Slaughter has therefore satisfied all prerequisites necessary to asserting her claims under the TCHRA.

JURY TRIAL REQUESTED

Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiff requests a jury trial in this cause and tenders the requisite jury fee with Plaintiff's Original Petition.

PRAYER

Plaintiff respectfully prays that Defendant appear and answer this petition and that judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court. Plaintiff further request that the Court award damages to her to the fullest extent of the law, including but not limited to:

a. back pay;

b. Compensatory damages;

c. Exemplary damages;

d. Attorneys' fees;

e. Costs, including expert witness fees;

f. pre-judgment interest;

g. post-judgment interest; and,

h. Such other and further relief to which Slaughter may show herself entitled under law or equity.

Respectfully submitted,

Thomas H. Padgett, Jr.
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Attorneys for Plaintiffs

OF COUNSEL:

BAKER & PATTERSON, L.L.P.

CERTIFICATE OF SERVICE

This certifies that a true and correct copy of this document was served, by United States Mail, postage prepaid, properly addressed, on this 7th day of August, 2006, as follows:

Shauna Johnson Clark
Fulbright & Jaworski
1301 McKinney, Suite 5100
Houston, Texas 77010

Thomas H. Padgett, Jr.